

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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TD BANK, N.A.,

Plaintiff,

-against-

JP MORGAN CHASE BANK, N.A. and
MAX KAHAN, INC.,

Defendants.

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LINDSAY, Magistrate Judge:

Notwithstanding a prior extension of the discovery deadline, defendant Max Kahan, Inc.’s (“Kahan”) moves by letter application dated April 18, 2011, for an additional sixty (60) day extension of the discovery deadline. Specifically, Kahan seeks this extension to pursue the following items of discovery: (i) the production of documents requested in its letters dated March 7, 2011, March 24, 2011 and April 7, 2011; (ii) responses to a letter request dated March 31, 2011; (iii) responses to Kahan’s Second Set of Interrogatories dated April 7, 2011; (iv) additional audio-tapes of conversations between Ms. Fan and others; (v) the scheduling of a deposition of Ms. Lau; (vi) the continuation of the deposition of Ms. Fan; and (vii) certain documents identified on Chase’s privilege log. Kahan has also advised the court that it has made a motion for leave to amend its Answer to assert cross-claims which is scheduled for oral argument on May 13, 2011 and will require minor supplemental discovery if the motion should be granted. Defendant JP Morgan Chase Bank, N.A. (“Chase”) opposes the application to the extent it seeks a sixty day extension but consents to a four-week extension of the discovery deadline to conclude outstanding matters, including the scheduling of a deposition of Mr. Gluck. Kahan’s motion is granted, in part. To the extent Kahan seeks discovery of the above-listed items, the court will grant a four-week extension of the discovery deadline for the limited purpose of solely pursuing the discovery outlined in its letter application and Chase’s response. Neither party may serve new requests or discovery applications.

Also before the Court is Kahan’s letter motion dated April 18, 2011, to compel the deposition of Vicky Lau, an investigative employee of defendant Chase in Hong Kong. Chase opposes the application based on, *inter alia*, Ms. Lau’s medical concerns and avers that in any event Kahan made no showing that Ms. Lau has material non-cumulative information. Chase has advised the court that Ms. Lau is on maternity leave and will be unavailable until August. With respect to Kahan’s motion to compel Ms. Lau’s deposition, Kahan seeks to question Ms. Lau on her investigative role in the case, which involved the tracing of funds that had been improperly wired from a customer account at Chase to an account at HSBC Bank, N.A. (“HSBC”) in Hong Kong. Ms. Lau’s testimony appears to be relevant to the issue of whether Kahan received the funds in good faith and without notice that the funds were procured by fraud. Kahan’s motion to compel the deposition of Ms. Lau is granted. The parties are directed to meet and confer to schedule the Lau deposition within the four week period. In view of Ms. Lau’s health concerns, a telephonic deposition should be considered. If medical issues preclude the scheduling of Ms. Lau’s deposition during this time period, the parties may seek additional time to conduct her deposition.

ORDER

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Should the district court grant Kahan's motion to amend its Answer, the parties may seek additional time for supplemental discovery, if necessary.

Accordingly, all outstanding discovery as outlined above is to be completed by June 28, 2011. The deadline to commence dispositive motion practice is to be completed by July 18, 2011. The final conference scheduled for May 31, 2011 is adjourned to August 2, 2011 at 2:00 p.m. The parties are directed to electronically file a joint proposed pretrial order in compliance with the district court's individual rules prior to the conference.

Dated: Central Islip, New York
May 4, 2011

SO ORDERED

/s/
ARLENE R. LINDSAY
United States Magistrate Judge